

U.S. Serial No. 09/759,112
Amendment dated December 29, 2003
Response to Office Action of September 25, 2003

REMARKS

Claims 1-15 were rejected and claims 16-20 have been withdrawn with traverse. Claims 4-5 and 7-9 have been cancelled and new claim 21 is presented hereinabove. Reexamination and reconsideration are requested.

Initially, Applicant wishes to thank the Examiner for withdrawing the restriction requirement subsequent to the response filed July 1, 2003. Applicant elected claim set III with traverse and Applicant's understanding is that the restriction between inventions A and B (VH and VL genes) is withdrawn. It is also Applicant's understanding that restriction between claim sets I and III is withdrawn.

Applicant remains perplexed, however, as to the exact subject matter under examination. For instance, the cover sheet accompanying the Action indicates that claims 1-15 are rejected. Also, the Action itself appears to address all of claims 1-15. Therefore, Applicant shall consider the Action as relating to all of claims 1-15 for the reasons given therein.

The Rejections:

Claims 4 and 7 were rejected under 35 USC 112 as being indefinite for use of the term "substantially identical", and were rejected under 35 USC 112, first paragraph, for the specification not being enabling for the claimed subject matter.

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Claims 4 and 7 are cancelled hereinabove, thereby removing any basis for these rejections.

Claims 1, 11, 14, and 15 were rejected under 35 USC 112, first paragraph, as failing to comply with the written description requirement. Specifically, it is the Examiner's position that the written description requirement has not been fulfilled for the description of "a genus of polynucleotides encoding any anti-idiotypic antibody that binds to a human or primate anti-HIV antibody."

Claim 1 has been amended to incorporate the limitations of original claim 9 therein. Accordingly, any basis for the aforesaid rejection is overcome.

With respect to the subject matter of claims 11 and 14, which relate to operably linking an instant nucleotide sequence to a human immunoglobulin constant nucleotide sequence, the paragraph bridging pages 10 and 11 provides sufficient disclosure to satisfy the aforesaid written description requirement. With respect to the subject matter of claim 15, the selection of a cell line is well within the skill of the ordinary practitioner and needs no further elaboration or encyclopedic compilation.

Claims 1-8, 11-15 were rejected under 35 USC 112, first paragraph, for the specification not being enabling for the

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previously claimed subject matter. Specifically, the specification was not found enabling for: (i) any other than the 1F7 antibody; (ii) any order of the FR and CDR regions other than that disclosed in SEQ ID NOS 7 and 24; and (iii) polynucleotides encoding only FR sequences.

Claim 1 has been amended to incorporate the limitations of claim 9 therein. Accordingly, any basis for rejection under this section on the aforementioned grounds has been removed.

Claims 1-8, and 11 were rejected under 35 USC 102(b) as being anticipated by Holmes et al. Subsequent to the amendments presented hereinabove, the presence of all three CDRs in the prescribed order for each of the VH or VL chains of 1F7 is now claimed. Therefore, any ground for rejection over this reference has been removed.

Claim 1 was rejected under 35 USC 102(b) as being anticipated by Lohman et al. Clearly, the cited reference does not teach or suggest any claimed polynucleotide following the amendments presented hereinabove.

Claims 12, 14, and 15 were rejected under 35 USC 103(a) as being obvious over Holmes et al. in view of Black et al. Holmes et al. is cited as disclosing the sequences mentioned in the Action and Black et al. is cited as disclosing a method of making humanized antibodies. Inasmuch as none of the cited

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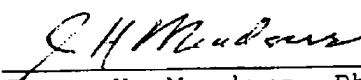
references teaches or suggests the recited nucleotide sequence, in which all three CDRs in the prescribed order for each of the VH or VL chains of 1F7 is claimed, none of the references or their combination renders the claimed subject matter obvious.

Original claims 9 and 10 were indicated in the Action as appearing to be free of the art. Applicants are grateful to the Examiner for his help in this regard.

In view of the above amendments and remarks, it is apparent that the application is now in condition for allowance. Accordingly, a Notice of Allowability is solicited.

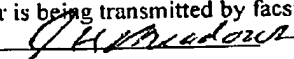
If, in the opinion of the Examiner, a telephone conversation could expedite prosecution, the Examiner is invited to telephone the undersigned attorney at the number given below.

Respectfully submitted,


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CERTIFICATE OF FACSIMILE TRANSMISSION

I, James H. Meadows, hereby certify that this paper is being transmitted by facsimile to the U.S. Patent and Trademark Office on the date shown. Signature:  Date: 12/29/2003